

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WILLIAM PHILLS,)	
)	
Plaintiff(s),)	
)	NO.
vs.)	
)	FILED: AUGUST 8, 2008
CHICAGO POLICE OFFICER GAYLE)	08CV4489
DIGGS, STAR NO. 2139 and UNKNOWN)	JUDGE CASTILLO
CHICAGO POLICE OFFICERS Individually)	MAGISTRATE JUDGE DENLOW
and as agents, servants and/or employees of)	EDA
the CITY OF CHICAGO, a Body Politic and)	
Corporate,)	
)	
Defendant(s).)	

COMPLAINT

COUNT I

CIVIL RIGHTS - COMPENSATORY AND PUNITIVE DAMAGES

NOW COMES the Plaintiff, WILLIAM PHILLS, by and through the LAW OFFICES OF STEVEN J. MALMAN & ASSOCIATES, P.C., and complaining of the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, Individually and as agents, servants, and/or employees of the CITY OF CHICAGO, A Body Politic and Corporate, Individually, states as follows:

1. That this action arises under Section 1983 and 1988 of the Civil Right Act, to-wit: 42 U.S.C., Sections 1983 and 1988 and the jurisdiction of this Court is based upon 28 U.S.C., Sections 1331 and 1343.

2. That on or about August 9, 2007, and for a long time prior thereto, the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and

UNKNOWN CHICAGO POLICE OFFICERS, were employed as City of Chicago Police Officers, within the scope of their employment and under the color of state law.

3. That on or about August 9, 2007, Plaintiff, WILLIAM PHILLS, was a passenger traveling westbound on a Chicago Transit Authority bus located 79th Street and Stony Island in the City of Chicago, County of Cook and State of Illinois, when Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, entered said CTA passenger bus.

4. That Plaintiff, WILLIAM PHILLS, while a passenger on said CTA passenger bus at the above-mentioned location was assaulted and battered without any reason or provocation by the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, specifically, when said Defendants battered Plaintiff about his body and face.

5. That Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, specifically assaulted and battered the plaintiff, WILLIAM PHILLS, about his body without any reasonable provocation whatsoever or in a defensive manner and committed said assault using excessive force which was unreasonable in light of the facts and circumstances confronting the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, which resulted in severe injuries to the Plaintiff, WILLIAM PHILLS.

6. That said Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, assaulted and battered the Plaintiff, WILLIAM PHILLS without any reasonable provocation whatsoever and

committed said assault using excessive force after they knew that Plaintiff, WILLIAM PHILLS, was not acting in a defensive manner and Defendants' acts were committed in a reckless and callous disregard for Plaintiff's rights.

7. That the assault of the Plaintiff herein, as fully described herein, was committed by the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, under the color of law and violated the rights of the Plaintiff, WILLIAM PHILLS, as guaranteed by the Fourth Amendment via the Fourteenth Amendment of the Constitution of the United States.

8. That as a direct and proximate result of the acts of the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, the Plaintiff, WILLIAM PHILLS, became seriously and permanently injured, specifically, he suffered multiple body trauma and also suffered mental damages which in combination caused great discomfort and has and will cause the plaintiff to incur ongoing damages as he attempts to recover from the damages proximately caused by the acts of the Defendants CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS.

WHEREFORE, the Plaintiff, WILLIAM PHILLS, prays for judgment against the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS for compensatory and punitive damages, plus costs of this action and also for attorney's fees incurred herein pursuant to this action.

COUNT II

INTENTIONAL TORT ASSAULT AND BATTERY

NOW COMES the Plaintiff, WILLIAM PHILLS, by and through the LAW OFFICES OF STEVEN J. MALMAN & ASSOCIATES, P.C., and complaining of the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, herein acting as agents, servants and/or employees of the Defendant, CITY OF CHICAGO, a Body Politic and Corporate, Individually, states as follows:

9. That this cause of action arises under Illinois State Law and this Court has jurisdiction over this State Law claim, pursuant to 28 U.S.C. Section 1367.

10. That on or about August 9, 2007, the Plaintiff, WILLIAM PHILLS, was lawfully a passenger traveling westbound on a Chicago Transit Authority bus located 79th Street and Stony Island in the City of Chicago, County of Cook and State of Illinois.

11. That on or about August 9, 2007, and for a long time prior thereto, the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, were employed as City of Chicago Police Officers by virtue of the law of the State of Illinois.

12. That said Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, assaulted and battered said Plaintiff without probable cause, the result of which the Plaintiff is presently in the most serious physical condition imaginable.

13. That at all times mentioned in this complaint the Plaintiff was in the exercise of due care and caution for his own safety.

14. That it was the duty of the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, herein acting as agents, servants and/or employees of Defendant, CITY OF CHICAGO, a Body Politic and Corporate, Individually, not to subject the Plaintiff to unreasonable risk of injury.

15. That at the aforesaid time and place, the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, herein acting as servants and/or employees of Defendant, CITY OF CHICAGO, a Body Politic and Corporate, Individually, did commit one or more of the following intentional acts:

- a. Intentionally assaulted and battered the Plaintiff about his body and face.
- b. Intentionally assaulted and battered the Plaintiff without probable cause and without provocation and without fear for their lives.

16. That as a direct and proximate result of the aforesaid intentional acts of the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, Individually, and acting as agents, servants and/or employees of Defendant, CITY OF CHICAGO, a Body Politic and Corporate, said Plaintiff was seriously and permanently injured, both internally and externally, specifically, Plaintiff suffered multiple body trauma and mental damage; he suffered great pain and anguish and was hindered and delayed in his occupation and continues in said same condition presently.

WHEREFORE, the Plaintiff, WILLIAM PHILLS, prays for judgment against the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, herein acting as agents, servants and/or

employees of Defendant, CITY OF CHICAGO, a Body Politic and Corporate, Individually, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS, plus costs of this action.

COUNT III

RESPONDEAT SUPERIOR

17. Plaintiff realleges and incorporates herein paragraphs 1 through 8 of Count I and 9 through 16 of Count II as if fully set forth herein.

18. The actions of the individual Defendants as set forth above and herein were done while the Defendants were within the scope of their employment.

19. Defendant, City of Chicago employed said Defendants and is therefore liable under the Doctrine of Respondeat Superior for the state law claims alleged in Count II above.

WHEREFORE, the Plaintiff, WILLIAM PHILLS, prays for judgment against the Defendants, CHICAGO POLICE OFFICER GAYLE DIGGS, STAR NO. 2139 and UNKNOWN CHICAGO POLICE OFFICERS, herein acting as agents, servants and/or employees of Defendant, CITY OF CHICAGO, a Body Politic and Corporate, Individually, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS, plus costs of this action.

Respectfully submitted,

/s/ Steven J. Malman
Law Offices of Steven J. Malman
& Associates, P.C.
ARDC No.: 6207944
205 W. Randolph Street, Suite 1040
Chicago, Illinois 60606
312/629-0099